



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: SEPTEMBER 29, 2022

IN THE MATTER OF:

Appeal Board No. 624066

PRESENT: MARILYN P. O'MARA, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective March 9, 2020, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed March 19, 2021 (), the Administrative Law Judge sustained the initial determination.

The claimant applied to the Appeal Board, pursuant to Labor Law § 620(3), for

a reopening and reconsideration of the Judge's decision. Due deliberation having been had, the Board has reopened and reconsidered the decision of the Administrative Law Judge.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant was employed part time by the employer retail clothing store for more than six years. At the time her employment ended, the claimant was being paid \$18.75 per hour. Although she was part-time, the claimant worked at least 32 hours a week until March 2019, when she went out on maternity leave. When she returned to work in June 2019, her work schedule changed, but the claimant was still scheduled to work at least 29 to 32 hours each week.

In late December 2019 or early January 2020, the claimant's hours were reduced, and she was only being scheduled to work 8 to 16 hours a week. When her hours were reduced, the claimant asked her supervisor repeatedly to schedule her for more hours of work, and even transferred to another store in the hopes that she would be given more hours, but that store only scheduled the claimant for 8 to 12 hours a week, and the claimant transferred back.

Although the claimant repeatedly asked to work more hours, the employer continued to schedule her for only 8 to 16 hours a week. In February 2020, the claimant told the store manager she was resigning, and last worked for the employer on February 18, 2020.

OPINION: The credible evidence establishes that the claimant resigned from her job because the employer reduced her hours from 29 to 32 hours a week, to 8 to 16 hours a week. Although the claimant asked to work more hours, the employer did not return the claimant to her prior schedule of hours.

We have held that "a unilateral reduction in part-time hours can give a claimant good cause to quit." See Appeal Board No. 542468A, citing to Appeal Board Nos. 513178 and 499058. It is significant that although the claimant was a part-time employee, her credible testimony establishes that she had been consistently working 29 to 32 hours a week throughout her six years of employment, even after her return from maternity leave. Under those circumstances, the claimant could reasonably expect that she would continue to be given a similar schedule. See, Appeal Board No. 513178.

We find that the employer's unilateral reduction of the claimant's hours was substantial, had a significant impact upon the claimant's pay, and provided the claimant with good cause for her voluntary separation from employment for unemployment insurance purposes. Accordingly, we conclude that the claimant voluntarily separated from employment under nondisqualifying circumstances.

DECISION: The decision of the Administrative Law Judge is reversed.

The initial determination, disqualifying the claimant from receiving benefits, effective March 9, 2020, on the basis that the claimant voluntarily separated from employment without good cause, is overruled.

The claimant is allowed benefits with respect to the issues decided herein.

MARILYN P. O'MARA, MEMBER